

Fair Political Practices Commission
MEMORANDUM

To: Chairman Randolph, Commissioners Blair, Downey, Huguenin and Remy

From: Theis Finlev, Executive Fellow
Scott Tocher, Senior Commission Counsel
Luisa Menchaca, General Counsel

Date: April 5, 2005

Subject: Pre-notice Discussion of Amendments to Regulation 18570 – Return of Contributions with Insufficient Donor Information

I. Executive Summary

Contributions with insufficient donor information must be returned to the contributor, pursuant to section 85700 of the Political Reform Act (“Act”).¹ Staff proposes amendments to regulation 18570 clarifying a committee’s obligations when the returned contributions are not cashed by the original contributor and the contribution remains in the committee’s bank account.

Staff proposes that regulation 18570 be amended to provide that returned contributions which are not cashed within 90 calendar days from the date they are returned by the candidate or committee be turned over to the General Fund.

II. Background

Technical Assistance Division (TAD) has received inquiries from committees and candidates asking how to handle contributions that have been returned pursuant to section 85700 of the Act when the returned checks are not cashed by the original contributor. TAD suggested that the callers request advice letters on this topic. Thus far, no such letters have been received and the Commission has not issued any opinions.

III. Proposed Regulatory Action

Section 85700 provides that a candidate or committee shall return not later than 60 days of receipt by the candidate or committee any contribution of one hundred dollars (\$100) or more for which the candidate or committee does not have on file in the records of the candidate or committee the name, address, occupation, and employer of the contributor.

¹ Government Code sections 81000-91014.

Currently, regulation 18570 provides that the 60-day period begins on the first day the candidate or committee obtains possession of the contribution; explains when the contribution is considered returned; and provides that a contribution that cannot be returned be turned over to the General Fund.

Commission staff proposes amending regulation 18570 as follows:

...(f) Contributions that are returned with a check, pursuant to Government Code section 85700, that are not cashed by the original contributor within 90 calendar days of being returned, pursuant to subdivision (c) of this section, shall be paid within an additional 30 calendar days to the Secretary of State for deposit in the General Fund of the state. If the contribution was made in connection with a local election, the contribution may be paid to the general fund of the local jurisdiction in which the committee is based.

Proposed subsection (f) provides for treatment of contributions which cannot be returned, similar to subsection (c) of the regulation, which provides that contributions that cannot be returned be paid to the General Fund of the state or local government agency.

How Amendment of this Regulation Addresses the Problem

Proposed subsection (f) of regulation 18570 establishes a time line and process for complying with section 85700, in cases where the original contributor does not cash the check in the amount of the original contribution.

IV. Recommendations

Staff recommends that the Commission approve the proposed amendment to regulation 18570 for adoption at the July Commission meeting.

Attachment:

Proposed Amendments to regulation 18570